

Minutes
Insurance Law Subcommittee
Business Law Section
State Bar of California
Friday, January 11, 2008

The meeting commenced at 12:00 p.m. at the offices of Sonnenschein Nath & Rosenthal, 525 Market Street, 26th Floor, San Francisco. In attendance: Rex Frazier, Chair (tel); Rob Cerny, Vice Chair; Patty Staggs; Tom Welsh; Ken Schild; Bob Peterson; Robin Ball; Laszlo Komjathy; Greg Parini; Bill Jameson; and Sheryl Lawrence. Also attending were former Committee Chair Barry Leigh Weissman; Andrea Rosen and Mary Ann Shulman of the California Department of Insurance and Guest Speaker Amy Doberteen, Chief of the Enforcement Division of the California Department of Managed Healthcare (“DMHC”). The Committee expressed its gratitude to Mr. Weissman for arranging the venue.

- A. Ms. Doberteen addressed the Committee on the issue of post-claim underwriting by health care service plans, with specific reference to the recent case of *Hailey v. Blue Shield*, 2007 Cal. App. LEXIS 2083. Ms. Doberteen reviewed the arguments presented in the case and the court’s interpretation of California Civil Code section 1389.3 governing the rescission of a health care service contract. Discussion also covered the provisions of the Insurance Code touching on the subject of rescission. Ms. Doberteen also reviewed current events in the DMHC, including pending draft regulations.
- B. The Committee approved the minutes of the meeting of December 7, 2007.
- C. Rex Frazier presented to the Committee regarding legislative developments and the current legislative calendar.
- D. Tom Watson prepared the Appellate Update, a copy of which was distributed at the meeting.
- E. The Committee discussed its contribution to the Business Law Section Annual Review. The deadline for submissions is January 15, 2008. Rob Cerny related that progress was continuing on the paper, with contributions from Tom Watson and Jeff Fuller.
- F. The Committee unanimously approved Barry Leigh Weissman for Committee membership and will forward his name to the Business Law Section for confirmation.
- G. The next meeting is scheduled for Friday, February 8, 2008 in Los Angeles. The venue was tentatively set for the offices of Chadbourne & Park.
- H. The meeting adjourned at approximately 2:00 p.m.